

Application No. 09/933,818  
Attorney's Docket No. 016800-451  
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### REMARKS

Entry of the foregoing, reexamination and further and favorable reconsideration of the subject application in light of the following remarks, pursuant to and consistent with 37 C.F.R. § 1.112, are respectfully requested.

#### Interview

The undersigned gratefully acknowledges the courtesies extended to herself, and Norman Stepno (Registration No. 22,716), by Examiner Jiang and Examiner Padmanabhan during the personal interview conducted on November 19, 2002 ("the Interview"). During the Interview, the nature of Applicants' claims (*i.e.*, that Applicants' claims are not compositions claims), the outstanding rejections, and the cited publication were discussed. The Interview Summary provided by the Examiner accurately reflects the discussions held, which are elaborated upon below.

#### Summary

As is correctly reflected in the Final Official Action, Claims 2-6 and 8-21 are pending. Claims 2-6 and 8-21 stand rejected under 35 U.S.C. §§ 102(b) and 112.

#### Amendments

By the foregoing amendments, Claims 18-21 have been canceled without prejudice or disclaimer. Applicants reserve the right to file one or more continuing applications directed to the previously-presented subject matter.

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In light of the cancellation of Claims 18-21, only regime or regimen claims remain.

**Antecedent Basis**

Turning now to the Official Action, Claims 20 and 21 were alleged to provide insufficient antecedent basis for "formulation." *See Official Action, Page 2.* By the foregoing amendments, Claims 20 and 21 were canceled. Accordingly, issues with respect to Claims 20 and 21 are now moot.

**Rejection of Claims 2-6 and 8-21 Under 35 U.S.C. § 112, Second Paragraph**

Claims 2-6 and 8-21 were rejected under 35 U.S.C. § 112, Second Paragraph, as purportedly indefinite. These rejections are respectfully traversed.

**A. Regime or Regimen**

As was discussed at the Interview, regimes and regimens are not compositions. To the contrary, regimes and regimens refer to methods.

In accordance with Applicants' interpretation of these terms as methods, Applicants attach hereto the material discussed by Applicants at the Interview: (1) THE AMERICAN HERITAGE COLLEGE DICTIONARY, 3<sup>rd</sup> ED., 1149, defining regime as "[a] regulated system, as of diet; a regimen;" and regimen as "[a] regulated system, as of diet, intended to achieve a beneficial effect;" (2) STEDMAN'S MEDICAL DICTIONARY, 26<sup>th</sup> ED., 1521 (1995) defining regimen as "[a] program, including drugs, which regulates aspects of one's life-style for a hygienic or therapeutic purpose; a program of treatment; and (3) RESULTS of a search

(numbering over 1,000 hits) on the U.S. P.T.O. website for issued patents whose claims include the terms "regime" or "regimen."

Based on the foregoing, Applicants maintain that "regime or regimen" is readily understood to mean methods. Accordingly, Applicants respectfully request examination of Claims 2-6 and 8-17 as such.

**B. Such period of time ... the desired response**

As was discussed at the Interview, Applicants claims are directed to regimes or regimens for treating: disorders of the barrier function of human skin, disorders of the secretion of epidermal lipids, photodermatoses or ulcers, and/or disorders of the metabolism of lipids. These foregoing treatments are, by definition, "the desired response." In turn, the amount of time required to achieve such treatment is "such period of time" during which the claimed compounds are administered.

Accordingly, Applicants reiterate that the phrases "such period of time ... the desired response" are readily understood by those of skill in the art. Applicants respectfully request withdrawal of the 35 U.S.C. § 112, Second Paragraph, rejections based on these phrases.

**C. PPAR**

Applicants disagree that the meaning of PPAR is unclear. As the Specification states:

The activity of receptors of PPAR type is the subject of numerous studies and publications. Exemplary is the publication entitled "Differential Expression of Peroxisome Proliferator-Activated Receptor Subtypes During the Differentiation of Human Keratinocytes," Michel Rivier et

al., J. Invest. Dermatol., 111, p. 1116-1121 (1998), in which a large number of bibliographic references relating to receptors of PPAR type are listed. (emphasis to PPAR added)  
*See ¶ 0019 from Specification, Page 5.*

Definiteness of claim language is not analyzed in a vacuum, but instead in light of the application disclosure, the teachings of the prior art, and the interpretation one of skill in the art would give the language in question. *See M.P.E.P § 2171.* Here, the application discloses what is meant by PPAR (*See, e.g., ¶ 0019 of the Specification*) and the application cites numerous publications from which one could readily ascertain the meaning of PPAR.

Based on the foregoing, Applicants respectfully request withdrawal of the rejections based on the alleged indefiniteness of "PPAR."

**D. "Compound (1) comprising at least one linear ..."**

As discussed in Applicants' last response, "lower alkyl radical," "linear or branched alkyl radical," "monohydroxyalkyl radical," and "polyhydroxyalkyl radical" are specifically defined in Paragraphs 0009-0012 of the Specification. Accordingly, what these terms mean is clearly set forth.

Moreover, the Examiner's hypothetical difficulty with determining "which substituent in the structural formula herein, i.e.,  $R_1, R_2 \dots R_8$  have this linear or branch alkyl radical in Claim 9 or other groups in 10-12" is surprising. Claim 2 specifies that:

$R_1$  is a hydrogen atom or an  $-OR_5$  radical

$R_2$  is a hydrogen atom or a lower alkyl radical

$R_3$  and  $R_4 \dots$  are each a hydrogen atom or a lower alkyl radical

etc.

Claim 9 then specifies that said at least one polycyclic aromatic compound (I) comprises at least one lower alkyl radical which is a methyl, ethyl, isopropyl, butyl, tert-butyl, or hexyl radical. Claim 10 specifies that said at least one polycyclic aromatic compound (I) comprises at least one linear or branched alkyl radical having from 1 to 20 carbon atoms which is a methyl, ethyl, propyl, 2-ethylhexyl, octyl, dodecyl, hexadecyl or octadecyl radicals. Claim 11 specifies that said at least one polycyclic aromatic compound (I) comprises at least one monohydroxyalkyl radical selected from the group consisting of 2-hydroxyethyl, 2-hydroxypropyl and 3-hydroxypropyl radicals. Claim 12 specifies that at least one polycyclic aromatic compound (I) comprises at least one polyhydroxyalkyl radical selected from the group consisting of 2,3-dihydroxypropyl, 2,3,4-tri-hydroxybutyl and 2,3,4,5-tetrahydroxypentyl radicals and the pentaerythritol residue.

Therefore, the very definitions of the R groups inform one whether they have the "linear or branch alkyl radical ... or other groups ... ." If present, Claims 9-12 specify what may be present.

In sum, Applicants reiterate that one of skill in the art would readily recognize what is meant by the cited claim terms and that breadth of a claim is not to be equated with indefiniteness. *See In re Miller*, 441 F.2d 689 (C.C.P.A. 1971). Applicants respectfully request withdrawal of the rejections to "Compound (1) comprising at least one linear ... ."

**Rejections Under 35 U.S.C. § 102(b)**

Claims 2-6 and 8-21 were rejected under 35 U.S.C. § 102(b) as allegedly anticipated by U.S. Patent No. 5,763,487 to Bernardon et al. ("Bernardon"). This rejection is respectfully traversed.

According to the Examiner, Applicants' arguments in their Reply and Amendment filed July 11, 2002, were not persuasive because said arguments did not apply to compositions. Because Applicants' claims are not directed to compositions, but instead to regimes or regimens, Applicants respectfully reiterate the arguments made in their July 11, 2002, Reply and Amendment (that Bernardon does not contain all elements of Applicants' claims) and submit that the Examiner's rejections are moot. Accordingly, withdrawal of the rejection of remaining Claims 2-6 and 8-17 is respectfully requested.

**Withdrawal of Finality of Last Office Action and Allowance of Claims 2-6 and 8-17**


In light of the understanding reached at the Interview and in light of the foregoing discussion, Applicants respectfully request that the finality of the last Office Action be withdrawn and that Claims 2-6 and 8-17 be allowed.

CONCLUSION

From the foregoing, further and favorable consideration in the form of a Notice of Allowance is respectfully requested and earnestly solicited.

In the event that there are any questions relating to this response, or the application in general, it would be greatly appreciated if the Examiner would telephone the undersigned attorney concerning such questions so that prosecution of this application may be expedited.

Respectfully submitted,  
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